United Nations S/2009/567

Security Council

Distr.: General
3 November 2009

Original: English

Letter dated 2 November 2009 from the Permanent Representative of Austria to the United Nations addressed to the Secretary-General

I have the honour to forward to you a concept paper for the Security Council open debate on the theme "Protection of civilians in armed conflict", to be held on 11 November 2009 (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Thomas **Mayr-Harting**
Ambassador

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Annex to the letter dated 2 November 2009 from the Permanent Representative of Austria to the United Nations addressed to the Secretary-General

Concept paper

Security Council open debate on the protection of civilians in armed conflict

11 November 2009

2009 marks the tenth anniversary of the Security Council's initial consideration of the protection of civilians in armed conflict as a thematic issue.

Since the adoption of resolution 1265 (1999), the protection of civilians has come to occupy a prominent place on the agenda of the Security Council. The four landmark resolutions, several presidential statements, the regular thematic debates, periodic reports of the Secretary-General and the aide-memoire on the protection of civilians, as well as the consideration of protection concerns in an increasing number of country-specific resolutions and the mandates of peacekeeping missions, are all indicators of the significant progress made over the last decade and the Council's commitment to the issue.

In that time, the Council has dealt with different aspects of the protection of civilians including the specific protection needs of women and children, the scourge of sexual violence, as well as the necessity of ensuring accountability and overcoming constraints on safe, unimpeded and timely humanitarian access.

As highlighted in the recent report of the Secretary-General on the protection of civilians in armed conflict (S/2009/277), the significant development of international norms and standards for the protection of civilians, the mandating of peacekeeping missions to protect civilians, and other important steps taken by the Council to enhance protection have not been fully matched by the requisite actions on the ground, and numerous challenges remain. The fact that civilians continue to bear the brunt of today's armed conflicts indicates the enduring need for the Security Council and Member States to further strengthen the protection of civilians.

Under the Austrian presidency of the Security Council, Foreign Minister Michael Spindelegger will chair a high-level open debate on 11 November on the protection of civilians in armed conflict. Marking the tenth anniversary of the Council's consideration of the protection of civilians, the debate provides a critical opportunity for the Security Council, Member States and other partners to engage in an in-depth exchange of views, to take stock of the progress made so far, and to reinvigorate the Council's commitment to the protection of civilians. It is also an occasion to identify and agree on concrete measures to improve compliance by parties to conflict with the existing normative framework for protection and the implementation of the Council's decisions. Participants may wish to discuss the following themes:

Strengthening the rule of law, enhancing compliance and ensuring accountability

As underlined by the Secretary-General, one of the main challenges we face is the failure of parties to conflict, including non-State armed groups, fully to respect, and ensure the respect of, their obligations under international law to protect civilians.

The Security Council has a key role to play in enhancing compliance as well as promoting accountability for violations of international humanitarian and human rights law. To a large degree, it is the absence of accountability, as a meaningful deterrent, that allows violations to thrive. The means at the Council's disposal range from consistently condemning violations, calling for strict compliance of all parties with their obligations under international law and promoting justice and reconciliation mechanisms, to applying targeted measures and requesting monitoring, reporting and fact-finding on serious violations as a prerequisite for ensuring accountability at the national or international level.

Improving the implementation of protection mandates by peacekeeping missions

Since 1999, the Security Council has tasked United Nations peacekeeping missions with assisting national authorities to exercise their responsibility in protecting civilians. Resolution 1674 (2006) reaffirmed the Council's practice of ensuring that mandates of peacekeeping and other missions include, on a case-by-case basis, provisions for the protection of civilians. Ensuring the effective implementation of such mandates — and the range of tasks and activities they imply, which involve all parts of a mission and not just the uniformed components — has been highlighted by the above-mentioned report of the Secretary-General and the New Horizon non-paper of the Department of Peacekeeping Operations (July 2009) as a major challenge of United Nations peacekeeping.

Overcoming the lack of common understanding of what peacekeepers can, and should, do to protect civilians is a priority for ensuring the credibility of United Nations peacekeeping missions mandated to protect civilians. Moreover, the disparity between mandated tasks and allocated resources and capabilities, as well as the information gap between the field and Headquarters — including the Security Council — are important challenges that need to be tackled.

The effective implementation of protection tasks involves a broad range of actors. It requires close consultation, including between the Security Council, the Secretariat and troop- and police-contributing countries, prior to the establishment, and throughout the life cycle of, peacekeeping missions. Enhanced operational guidance for peacekeepers on how to implement protection tasks as well as mission-wide protection strategies (based on a realistic assessment of the threats to civilians and the protection role of humanitarian, human rights and other relevant actors) can contribute to ensuring the coherent, coordinated and effective implementation of protection activities.

Enhancing the provision of information and reporting to the Council on issues pertaining to the protection of civilians

Comprehensive, accurate and detailed reporting on the protection of civilians including on constraints on safe, timely and unimpeded access for humanitarian actors, and a regular flow of information between both Headquarters and the field

are prerequisites for the Security Council and other stakeholders to be able to take timely and informed action to ensure the protection of civilians in specific situations. Improved reporting would furthermore enhance Council monitoring and oversight of the implementation of protection activities and progress by peacekeeping missions, and allow it to adjust mandates to reflect changes on the ground.